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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,606	11/20/2003	Hiroaki Himi	01-100-DIV	7172
23400	7590	06/02/2006	EXAMINER	
POSZ LAW GROUP, PLC 12040 SOUTH LAKES DRIVE SUITE 101 RESTON, VA 20191				PHAM, THANHHA S
		ART UNIT		PAPER NUMBER
		2813		

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/716,606	HIMI ET AL.
	Examiner Thanhha Pham	Art Unit 2813

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 November 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3,5 and 15-32 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 15-29 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,5 and 30-32 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. 09/713,018.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

This Office Action is in response to Applicant's Amendment dated 03/16/2006.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 1. Claim 32 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

► With respect to claim 32, it is not clear where a stratiform region is located. It is not clear how the insulating layer is provided by a stratiform region. It is not clear the insulating layer is the same or different to "a stratiform region".

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- 2. Claims 1-2 and 30-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Wijaranakula [US 5,611,855].**

Art Unit: 2813

- With respect to claims 1-2, Wijaranakula (figs 1-7, abstract and cols 1-8) discloses the claimed method for manufacturing a semiconductor substrate comprising:

forming a epitaxial layer (16, figs 2 & 4, step 46 of fig 4) on a semiconductor substrate by epitaxial growth wherein the semiconductor substrate contains oxygen at high concentration; and

forming an insulating layer (the microdefect layer 30, figs 3 & 4, step 50 of fig 4, col 5 lines 51-67 and col 6 lines 1-6) by deposition at an interface between the epitaxial layer and the semiconductor substrate by performing a heat treatment that is performed in an oxidizing atmosphere, the insulating layer is formed by deposition of an oxide, wherein the heat treatment for forming the insulating layer is performed at a temperature higher than about 1100°C (e.g. 1200°C, col 5 lines 54-60).

- With respect to claim 30, Wijaranakula (cols 3-4) discloses the semiconductor wafer (10) is made of silicon, the epitaxial layer (16) is made of silicon and the silicon layer (30) is made of silicon oxide.
- With respect to claim 31, the insulating layer (30) of Wijaranakula is formed from a distortion layer (layer containing oxide microdefect 14) of the interface as nuclei and the distortion layer is disposed at the interface between the epitaxial layer (16) and the semiconductor substrate (12).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**3. Claims 3 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wijaranakula [US 5,611,855].**

With respect to claims 3 and 32, the claimed range concentration of oxygen in the semiconductor substrate and the claimed range thickness of the insulating layer are considered to involve routine optimization while has been held to be within the level of ordinary skill in the art. As noted in *In re Aller* 105 USPQ233, 255 (CCPA 1955),, the selection of reaction parameters such as temperature and concentration would have been obvious.

"Normally, it is to be expected that a change in temperature, or in concentration, or in both, would be an unpatentable modification. Under some circumstances, however, changes such as these may be impart patentability to a process if the particular ranges claimed produce a new and unexpected result which is different in kind and not merely degree from the results of the prior art...such ranges are termed "critical ranges and the applicant has the burden of proving such criticality... More particularly, where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation."

See also *In re Waite* 77 USPQ 586 (CCPA 1948); *In re Scherl* 70 USPQ 204 (CCPA 1946); *In re Irmscher* 66 USPQ 314 (CCPA 1945); *In re Norman* 66

*USPQ 308 (CCPA 1945); In re Swenson 56 USPQ 372 (CCPA 1942); In re Sola 25 USPQ 433 (CCPA 1935); In re Dreyfus 24 USPQ 52 (CCPA 1934).*

In addition, with respect to claim 32, the insulating layer is provided by a stratiform region (region of layer containing microdefect 14, fig 2).

### ***Response to Arguments***

#### **4. Applicant's arguments filed on 3/16/2006 have been fully considered but they are not persuasive.**

Contradict to Applicant's argument on page 8, Wijarankulu teaches forming the insulating layer (30) by the heat treatment (step 50) at the temperature higher than about 1000°C (e.g 1200°C, col 5 lines 54-60).

Contradict to Applicant' argument lines 1-7 on page 9, Wijaranku discloses the layer 30 as insulating layer (silicon oxide layer formed from a layer containing the oxide microdefect 14 through thermal oxidation of step 50 – annealing in O<sub>2</sub> atmosphere).

Regarding to Applicant's argument on lines 10-14 on page 9, In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the distortion layer being formed by a difference of oxygen dopant concentration or a lattice constant between the epitaxial layer and the semiconductor substrate) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanhha Pham whose telephone number is (571) 272-1696. The examiner can normally be reached on Monday and Thursday 9:00AM - 9:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Whitehead can be reached on (571) 272-1702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thanhha Pham  
Patent Examiner